

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO

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UNITED STATES OF AMERICA,

Plaintiff,

vs.

TONY GOODWIN,

Defendant.

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CASE NO. 1:14-cr-214

ORDER

[Resolving Docs. [1108](#), [1148](#)]

JAMES S. GWIN, UNITED STATES DISTRICT JUDGE:

On March 20, 2017, this Court denied Defendant Tony Goodwin's petition for habeas corpus relief under [28 U.S.C. § 2254](#).<sup>1</sup> On April 20, 2020, Defendant Goodwin moved for relief from this denial under [Federal Rule of Civil Procedure 60\(b\)](#).<sup>2</sup> On August 6, 2020, Goodwin moved to amend his April motion for relief.

Movants may not use Rule 60(b) to to "attack[] the federal court's previous resolution of a claim *on the merits*."<sup>3</sup> Although labeled as a [Rule 60\(b\)](#) motion, Goodwin's April motion is "in substance a successive habeas petition and should be treated accordingly."<sup>4</sup>

Under [28 U.S.C. § 2244\(b\)\(3\)](#), a prisoner seeking to file a second or successive habeas petition must first request an order from the court of appeals authorizing the district court to entertain the petition. If the prisoner instead files the successive petition in the district court, the district court must transfer the motion to the court of appeals.<sup>5</sup>

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<sup>1</sup> Doc. [948](#).

<sup>2</sup> Doc. [1108](#).

<sup>3</sup> *Gonzalez v. Crosby*, 545 U.S. 524, 538 (2005).

<sup>4</sup> *Id.* at 531.

<sup>5</sup> See *In re Sims*, 111 F.3d 45, 47 (6th Cir. 1997) (per curiam).

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The Court construes Goodwin's Rule 60(b) motion as a successive § 2254 habeas petition and **TRANSFERS** it to the Sixth Circuit for consideration.

IT IS SO ORDERED.

Dated: August 24, 2020

s/ *James S. Gwin*  
JAMES S. GWIN  
UNITED STATES DISTRICT JUDGE